#### **BEDFORD PLANNING BOARD**

# Town Hall-Selectmen's Meeting Room Regular Session Minutes February 4, 2015

MEMBERS PRESENT: Shawn Hanegan, Chair; Amy Lloyd, Clerk; Jeffrey Cohen; Sandra Hackman;

Lisa Mustapich

MEMBERS ABSENT: None

STAFF PRESENT: Glenn Garber, Planning Director; Catherine Perry. Assistant Planner; Kim Siebert,

**Acting Recording Secretary** 

STAFF ABSENT: Cathy Silvestrone, Planning Administrative Assistant

OTHERS PRESENT: Pamela Brown, Attorney for Brown & Brown; John Cronin, owner Ken's NY Deli; Salvatore Canciello, 49 Hillside Ave; James Garabedian, owner Ken's New York Deli; Kay Hamilton, 70C Great Rd.; Marc Hamilton, 70D Great Rd.; Anne Herbert, 70D Great Rd; Karen Kalil-Brown, 16 North Rd, Historic District Commission; Alan Long, 43 Great Rd., Historic District Commission; Bill Moonan, 18 Crescent St, Selectman/Historic District Commission; David Powell, Finance Committee liaison; Art Smith, 9 Middlesex Rd.

Mr. Hanegan convened the meeting at 7:32 and introduced substitute recording secretary Kim Siebert who will take minutes during Ms. Silvestrone's absence.

**Emergency Evacuation notice** read by Ms. Lloyd, Clerk.

Note: All meeting submittals are available for review in the Planning Office.

### **DEVELOPMENT PERMITTING SESSION:**

Minor special permit amendment for Ken's NY Deli at Blake Block, 68-84 The Great Road, for expansion of restaurant into former Wicked Good Frozen Yogurt space and additional outdoor seating.

Mr. Hanegan listed the supporting documents in hand: a memo from Director Garber, a memo from Attorney Pamela Brown dated January 14, floor plans and a modified sidewalk plan for outdoor seating dated February 4.

Speaking to the project, Ms. Brown said, "The idea is not to expand Ken's proper as we know it today but to create a small, Italian café, sit-down dining experience." One kitchen would serve the two restaurants but the menus would be different. The concept is casual dining, but not fast food or counter service.

The existing Ken's is 2,180 sq. ft.; Wicked Good is about 1,200 sq. ft. The Wicked Good layout will be retained and the area that is now a yogurt bar will become "another [kind of] bar with a few seats," Ms. Brown said.

The floor plans before the Planning Board—the same as those already presented to the Selectmen— are in two versions: summer, when 2 of the expansion bar seats and 4 of the Ken's seats would be moved outside; and winter, with all seating indoors. Ms. Brown specified that "only about six seats would go outside so people could bring food outside if they so desired." In the winter, there would be a maximum

of 27 seats in the expanded space [there are now 20], including the barstools. The idea is not to create a bar scene but to accommodate those dining alone or anyone wanting a casual drink.

Ms. Brown said the modified plan in the Board's packet was a response to DPW safety concerns regarding sufficient sidewalk clearance. Attorney Brown said that a five foot clearance would be maintained. Ms. Brown added that separation from the public sidewalk would be provided by "bollards or roping or a little fence." Within this, there will be 2 feet of clearance to seating as required under licensing rules.

In terms of parking, Ms. Brown said the original parking calculations for Wicked Good satisfy parking for new use, although she noted there would be slower turnover.

Mr. Cohen asked for confirmation that the intended tables would fit in the space as indicated. "It looks like on the site plan that the seating extends into the doorway."

Ms. Brown replied that, at one doorway, seating would go on either side of the entry. At the other end, there is another door but it isn't used. "This is all moveable seating and roping. In the case of an emergency, you'd just open that door and go out," she said. The Board asked if there was sufficient space to seat someone in a wheelchair; Ms. Brown said they could be seated on the ends..

Mr. Cohen said he was satisfied if Code Enforcement is satisfied; Ms. Brown said when the seating was actually placed, she would "do a Town check and make a field change" as needed.

Mr. Cohen said he attended a recent ZBA meeting where he learned of parking problems currently at the site, due to customers taking residents' spots. Ms. Brown replied that no spaces were assigned specifically for residents only, except in the case of the carriage house behind the main Blake Block building. "It may be that we need to do that—it would make sense for the residents—but when we originally did the permitting, it's my recollection that it was drafted to be shared parking."

Ms. Lloyd asked whether the outdoor tables are to be full-service. Ms. Brown, conferring with applicants Mr. Cronin and Mr. Garabedian, replied that the outdoor seats are not full-service. Ms. Lloyd said, if umbrellas are to be used above the tables, width and height allowances will increase and Code Enforcement should reconfirm the clearance is satisfactory.

Ms. Mustapich said she is in favor of the plans as presented and wishes the applicants success.

Ms. Hackman said she assumes the Historic District Commission has jurisdiction over the type of seating and bollard style since it affects the exterior appearance of the property. Mr. Garber replied these features are seasonal and need for HDC's opinion is marginal. Ms. Mustapich and Ms. Hackman agreed it would be good, nonetheless, to ask the HDC for input.

Ms. Hackman said she is somewhat concerned with the parking plan as described, even though the calculated need remains the same. "If Wicked Good didn't do much business, it didn't affect the parking so much....If we end up dedicating spaces [for the residents], I assume that would have to be an amendment to the special permit. How would it affect parking, if you don't have shared use anymore? Doesn't that change what's available?"

Mr. Garber stated that the Blake Block is very close to its off-site parking capacity, and added that he has

discussed both the calculations and the practical situation with Mr. Laskey; they agree that the shared use concept and number of spaces has worked satisfactorily up to this point but the limit of comfort is approaching. Mr. Garber noted that the Country Store building is being proposed for a full rehab with mixed use—commercial down and apartment up—so parking issues will be revisited.

On the subject of sidewalk passing clearance, Ms. Hackman asked whether the 5 feet now being proposed (as opposed to the minimum of 4 feet) would be forever part of the special permit. Mr. Garber confirmed "it would be codified until such time as it's changed." Ms. Hackman said the original concept was to have a wide sidewalk in front of the block where people could congregate. With more objects occupying the frontage, the area will be squeezed. "On the other hand, the space will be friendlier with the seating out there," she added.

Mr. Hanegan asked where the closest trash cans are to the proposed seating. Ms. Brown noted two single receptacles, each located near a set of park benches. Through Ms. Brown, applicants Cronin and Garabedian verified that restaurant staff would be responsible for the cleanliness of the outdoor seating area.

Mr. Hanegan asked if the hours would change. The applicants confirmed the hours would remain the same.

Art Smith of Middlesex Road spoke in favor of granting the special permit amendment, saying that in his opinion, the project "really makes the center of town work. I can't think of a better thing happening than Ken's showing up. It fulfils a lot of the thoughts and feelings I have about what we can do to Bedford center to make it more viable."

MOTION: Ms. Lloyd moved to accept a minor special permit amendment to allow expansion of Ken's Deli into the former Wicked Good yogurt space, and adding outdoor seating as proposed. Ms. Mustapich seconded. The motion passed unanimously, 5-0-0.

<u>MINUTES:</u> Ms. Lloyd moved to accept the minutes of January 7, 2015 with minor amendments. Mr. Cohen seconded. The motion passed unanimously, 5-0-0.

## **OLD BUSINESS:**

100 Plank Street - signing of decision for minor special permit amendment as approved on January 20.

There being no additional comments on the January 20 decision drafted by Catherine Perry, the Board signed the decision for the amendment.

While awaiting the invited Historic District Commission members to discuss another item of business—120 The Great Road—Chair Hanegan moved on to other agenda items.

### **NEW BUSINESS:**

<u>Update on FinCom Fund Transfer Request for temporary help in emergency situation.</u>

Mr. Garber said the Finance Committee has been "incredibly kind, empathetic and generous," funding up to \$1,500 for temporary assistance to cover administrative support during Ms. Silvestrone's absence.

## **VERBAL STAFF REPORT:**

Ms. Perry said the subdivision at 57-75 Hartwell Rd./16 Beacon St.—scheduled to come back as soon as the next meeting—is being reconsidered by the applicant, who has indicated they may switch to a conventional subdivision rather than a cluster housing proposal.

Attorney for the project Pamela Brown said soil testing is scheduled for "Tuesday or Wednesday of next week." She added she met with Attorney Lombardo after sending him a "conventional definitive plan [with larger lots] that would leave the Beacon St. lot alone and do four lots on the other two parcels. He's not sure if his clients will like that better. They still wish to increase the buffer along their property line."

Assistant Planner Perry said, if the development changes from cluster to conventional, it may need to be withdrawn and resubmitted.

Ms. Perry reported that Paul Marcus, owner of 15 Fletcher Road within the Blake Block area, intends to apply for a minor amendment to the special permit to change the upper floor of his building from commercial to residential and to add a couple of parking spaces.

An historic residential property at 127 North Road is on the market with the view to being torn down and replaced with a one or two-family dwelling (Ms. Perry has been answering some related permitting inquiries).

The café proposal at the Bikeway Source building is expected to be submitted to the Planning Board "before the end of February."

The Massachusetts DOT has withdrawn its intention to site a new roadway maintenance/salt shed on the west side of the interchange of Rtes. 3 and 62.

Director Garber reported on a follow-up to a ZBA special permit to allow expansion at Carleton Willard. They are interested in doing some further expansion which would require some re-zoning. "The possibilities range from the most minimal tweak to increase the number or types of units, or going to the other end of the spectrum and creating new provisions. Or, we could take a more holistic approach and address assisted living, multi-level living complexes in general—of which we only have Carleton Willard [as an example]....We're talking with their engineer next week. That would be targeted for Special Town Meeting next fall, if a re-zone goes forward."

A separate issue, Mr. Garber said, involves Phase III of the Middlesex Turnpike project. Bedford Woods Office Park—a business development near the Billerica line "that was never fully built out," has indicated willingness to place part of its undeveloped acreage in a permanent, state conservation restriction in exchange for relief from an old agreement to do traffic improvements to the intersection of Middlesex Turnpike and Lexington St. and confirmation of remaining development rights. This may involve a request to modify the original approval from the 1990's.

Another item involves the Conservation Commission which has approached the Planning office on a Page Hill matter "to try to clarify easements to allow public access through the trail swaths in that subdivision.

This has a very long permitting history from the mid to late 90's. We're going to have to do some real forensic work on that," Mr. Garber said.

## **RETURN TO OLD BUSINESS:**

120 The Great Road—informal discussion of permitting issues for restaurant proposal, prior to submission of site plan review application; Historic District Commission invited.

Chair Hanegan emphasized the preliminary nature of this discussion, explaining that, if the project were to go forward, the Planning Board would at that point conduct a site plan review. Some HDC members now present, the Commission having been invited to join the discussion. However, Mr. Hanegan clarified that it was not a joint meeting and that HDC members would be speaking as individuals.

Accompanying documents for this item of business include a GIS map showing the neighborhood; a memo from Assistant Planner Perry; a use special permit application and cover letter from Brown & Brown to the ZBA; another piece of correspondence from Attorney Brown to the ZBA; an interim site plan (covering 110 and 110A Great Road as well as 120 Great Road) and a drawing of the intended building.

Ms. Brown said an application to the ZBA has been filed for a special permit to build a restaurant "in the Limited Business zone."

She added that a curb cut would be eliminated at 120 The Great Road and the curb cut at 110 would be widened. The existing parking lot at Brown & Brown would be expanded at the rear. "We're not putting parking up front towards the street; we're trying to preserve the streetscape. We're sharing parking. There would be a loop off to the restaurant with a few handicap and take out spaces" closer to the main entrance to the restaurant.

Referring to the rendered drawing of the proposed restaurant, "there's been some critique of my barn idea for the building but what I was looking for was something that was in keeping with Historic Bedford, something that fit the character of the town." Whether there would be open rafters or a second floor, Ms. Brown is not yet sure. She emphasized there are many details still to be worked out.

"One of the reasons we wanted to get rolling quickly with the Zoning Board is because we wanted to hear from neighbors," Ms. Brown said. "We have heard from a couple and the most vocal is completely happy now." Ms. Brown explained that this particular abutter is to the rear of the site. He was worried that headlights from the parking lot "would shine into his bedroom." Ms. Brown said appropriate buffers would be created for this property as well as for the Callahans at 5 Springs Rd.

Ms. Brown identified a couple of current open questions about parking: 1) whether the parking is an extension of a non-conforming accessory use and would require a special permit for the change; 2) what the fate would be of the little historic house on the property. On the first question, Ms. Brown said she and Code Enforcement Director Laskey were in dialogue about parking and Town Counsel will be consulted. On the second question, Ms. Brown said her intention is not to demolish the little house but she also is not sure how it will be used. Currently, it is rented as a residence.

Ms. Brown said that an application has not yet been filed with Planning because she understands Planning

would like to first see a ZBA decision. She added, however, that she is anxious to assure the interested restauranteur that the project will move forward within a reasonable timeframe.

Preliminary questions from the Board:

Ms. Hackman confirmed that the zoning for the site of the restaurant building is Limited Business and then asked if that categorization meant the Board could not require a 50 foot buffer. Ms. Lloyd said that the abutters along Great Road were businesses, not residences. Ms. Perry said that the zoning bylaw's landscape buffer provision, as modified recently at Fall Town Meeting, does apply to developments in the Limited Business District where they adjoin a residential district, as this does at the rear. However, it is flexible as to width. Zoning setbacks are less than 50 feet.

Mr. Cohen asked how many parking spaces currently exist vs how many there would be if the restaurant were permitted. Ms. Brown said there are currently around 50 and there would ultimately be 100.

Mr. Cohen asked how far the setbacks would be in the rear and on the sides. Looking at the interim site plan, Ms. Brown said the closest any of the parking area would be to an abutting lot line is 20-30 feet. Ms. Brown added that her family owns another parcel behind 110 The Great Road but that property would not be touched. She added there's "a significant topographic change so the homes down on Hillside are far below so our parking lot is literally at roof level. And then the properties further down that would be off the back of the parking lot are more distant and also downhill. There're a lot of trees back there now but certainly we'd do some landscape planting."

Mr. Cohen said the Planning Board's site plan review will involve looking at the parking layout and "whether it's appropriate for the use or not." He added, "It seems like there are so many zoning questions...the use relies on so [much] zoning relief that you need, it's like you're putting the cart before the horse."

Ms. Brown said all of the questions can be sorted out and that, in her mind, the worst case is she would need a special permit.

Mr. Cohen asked how many seats the restaurant would have and Ms. Brown replied the restauranteurs are planning for 160 seats. With 1 space per 4 seats and employee parking factored in, the number of spaces required would be 60. Ms. Brown added that the current Brown & Brown lot is not used to capacity.

Mr. Cohen said the size of the planned parking area was of concern to him. Ms. Brown replied that it looked large on paper but the parcel—actually a combination of three parcels— is "large and underutilized."

Ms. Perry said that parking is usually treated as an accessory use. She agreed there are "a lot of complicated zoning and permitting issues" with this proposal, which was why Mr. Laskey is consulting Town Counsel. He intends to provide greater guidance for the ZBA in time for its next meeting. In the meantime, the Planning Board could offer guidance for a site plan review application.

Ms. Lloyd asked what the parking requirement is for the Brown & Brown office building. Ms. Brown said she would delve into that calculation and provide an answer.

Ms. Lloyd asked if the existing parking lot extends into the lot behind also owned by the Brown family.

Ms. Brown said it did "a little bit." Ms. Perry pointed out that the lot line between 110 and 110A is not shown on the interim plan and will need to be shown on any formal site plan submitted for review. The GIS plan shows the existing parking going approximately to the lot line.

Mr. Hanegan asked if a traffic impact study could be done. He expressed particular concern with the effects cars turning left into the restaurant and cars turning left leaving the restaurant would have on already glacial Great Road traffic flow. Ms. Brown said a traffic study could be done but that it "would be a pretty simple math calculation." She added she believes cars in the rolling queue on The Great Road will yield to turning cars during busy times.

Ms. Brown said, "From the perspective of the Comprehensive Plan, everything we're doing here is very consistent. We're going to add a bunch of parking, yes, but in the scheme of things, in the area of the open land that's there, it's actually quite small in terms of a percentage. I think with some nice landscaping, we'll make everyone around us happy."

Mr. Hanegan said he found the plan of the site to be confusing. He asked several questions about bike parking, sidewalk access between the parking lot and the restaurant, lighting, signage, heights/ the need for a retaining wall, and colors. Ms. Brown said the stage of the project is so preliminary that most of these decisions have been reached yet. On the subject of lighting, Ms. Brown specified it will be safe but lowly-lit, in deference to the residential neighbors.

Mr. Cohen asked about placement of dumpsters. Ms. Brown replied the dumpster would be compacting and located behind the restaurant.

Mr. Hanegan asked members of the audience for comment. Mr. Moonan said the HDC has not been asked to weigh in on the project as yet so he was speaking as a citizen. He noted that there are Great Road neighbors that are residences. Roy Watson, with business and residence at the corner of Hillside and Great Road, has already lodged noise complaints about neighboring business deliveries made at all hours. "As I understand it, there is no zoning or bylaw that controls when deliveries can be made, "Mr. Moonan said. "That entire block is not purely a commercial property. I don't know to what extent that would influence any decisions. A restaurant there would be an entirely different business than currently exists on that block [with] a lot higher volume."

Mr. Moonan voiced his concerns about melding parking between the two parcels of land, particularly because the Dominee Manse, where the Brown & Brown offices are at 110 The Great Road, is "one of finest historic properties" in Bedford. "Just because the ownership is now essentially the same—different entities but the same family—does not mean it will be that way forever. One must be mindful that whatever gets built today will, in all likelihood, be around for 100 years. From a historic standpoint, we might be tying our hands by having the parking joined."

He added that the HDC will be interested in having whatever parking there may be "screened as much as possible from the Great Road so it doesn't add to the clutter." Ms. Hackman said she is concerned about the scale of the building, for both the lot size and the neighborhood. "It feels as if this whole new use will be overwhelming to that block which is pretty charming right now—it's got a lot of variety to it. I'm very concerned about the traffic in and out and the impact on Great Road so I'd like to see that addressed with some kind of analysis. Also, the look and feel of the building. You've had a lot of comments on that already and Catherine [Perry] has some of that in her memo. I think the scale of this is important."

Ms. Mustapich said the rendered drawing looked "like a Crackerbarrel." Citing other buildings in the neighborhood, Ms. Mustapich pointed to their residential style, saying, "Just because it looks like a house doesn't mean it has to be a house. Look at the Colonial Inn in Concord. It blends in so much better." Although she said such commentary was HDC territory, she recommended pushing the building further back on the lot "so that it's level with the Manse, on the same plane. And, keep grass out front to give it a residential feel."

Ms. Mustapich added she would prefer a buffer that was not a 6 foot stockade fence. She also prefers large, deciduous trees rather a row of arbor vitae. She suggested Sovereign Bank might entertain the idea of shared/leased parking after business hours, as preferable to having parking in the residential district.

Mr. Cohen reiterated others' concerns about screening and his own about the parking. He also did not like the thought that the lot would have to be clear cut to build a restaurant of that size. "That's unacceptable to me. That would denigrate the streetscape. I'd rather see more green space along front. It's just too dramatic a change to the streetscape."

Ms. Lloyd said she had already conveyed many of her thoughts to Ms. Brown. She added that the footprint of the building was too large, in her opinion. Ms. Lloyd spoke also about the aesthetic of "intown vs. country", with her preference for intown for this project.

Ms. Lloyd recommended that Ms. Brown hire a landscape architect to design the site, including hardscape and soft landscaping. "I think it would be beneficial to take a fresh eye to the entire parcel to see how it could best be maximized, best be screened, rather than 'can we take a couple of feet here or there?"

Ms. Brown emphasized that the plan is rudimentary at this point. "I really appreciate all the comments because it's good advice and good direction for me, but try not to do it from criticizing this plan because it's just not there yet."

Ms. Lloyd recommended smaller scale trees, being particularly mindful of the downhill abutters to the northwest whose properties would be thrown into greater shade by taller trees. Ms. Brown reported that the abutter at 24 Hillside has asked for a berm.

Ms. Lloyd asked what Ms. Brown meant when she mentioned low-level lighting, earlier in the discussion: low lumens or lamps physically low of height. Ms. Brown said she plans to engage a lighting consultant to determine what's best.

Ms. Lloyd reported there's concern about the little house on the property. "It might assuage people to simply say 'it will either be restaurant storage or nothing." Alternatively, Ms. Lloyd suggested moving the house onto a different lot and Ms. Brown replied that it was "worthy of consideration."

Mr. Hanegan said he shared other Board members' concerns about traffic, parking, maintaining green space along The Great Road, and scale/footprint. Mr. Hanegan said secondary access from Springs Road through the Santander Bank parking lot would potentially be of benefit.

Mr. Hanegan said he would prefer the building to be pushed further back on the lot and the proposed patio relocated. Ms. Brown said the building as currently planned is already further back than the required 10 feet. "I understand what people like and that people like green but at the same time, we have a small lot," Ms. Brown said.

Ms. Lloyd asked if Ms. Brown would consider merging the 110 Great Road and 120 Great Road lots. Ms. Brown wondered why that would be needed, asserting that both lots are conforming, but expressed openness to the idea if it proved necessary.

## **DIRECTOR'S UPDATE:**

Mr. Garber said that the nine Planning directors of the Middlesex3 Coalition communities met earlier to start collaboration on a regional, streamlined permitting model, which could have "some kind of Overlay structure." The directors also discussed regional approaches to infrastructure funding and transportation demand management.

Mr. Garber reminded the Board about a previous working session on a transportation resolution that may turn into a draft regulation for transportation demand management [TDM], specifically for larger employers. "As time permits, I'll hopefully bring a draft back to you in the very near future. We're interacting with Burlington and other Middlesex3 member communities for other ideas...We might end up being in the vanguard on this."

Ms. Hackman commented that Burlington already does a lot with TDM; Mr. Garber reported that he is possession of Burlington's TDM bylaw. "They are very thorough on listing all the options for TDM [but] I don't like the basic approach. It does what the first generation of TDM local bylaws did. It targets *any* business coming in for permitting and that's absurd....You need a big economy of scale, you need critical mass: a lot of people arriving roughly the same time in the morning and leaving roughly the same time at night, within a confined area. Our proposed regulation will reflect that assumption."

Ms. Hackman said that Bedford has an advantage because other communities' TDM bylaws can be learned from. Mr. Garber agreed, adding the old TDM laws "weren't very effective."

## Other work program updates

Ms. Hackman said the Governor released his mid-year budget cuts and, somewhat miraculously, funding for District Local Technical Assistance has been preserved. Bedford has applied for DLTA through the Metropolitan Area Planning Council to analyze the area of town near the Great Road Shopping Center as groundwork to proposing zoning changes that could foster a more vibrant and aesthetically pleasing area.

Ms. Hackman recommended that the Board report on the Comprehensive Plan at Annual Town Meeting. Mr. Hanegan agreed this would be prudent, especially since no additional zoning bylaw amendments will be proposed at this meeting. Ms. Mustapich recommended an up to 6 minute update, at most. Mr. Cohen asked if the report would highlight the bylaw amendments the Board is working toward for fall presentation. Ms. Hackman said that in the past, the Board has asked each Town board and committee to submit information about what pieces of the Comprehensive Plan they are tackling. "Everybody is involved and takes ownership of fulfilling the Comprehensive Plan," she explained.

Ms. Hackman said a once-a-year Comprehensive Plan progress report is beneficial and best done perhaps by gauging the status of the near-term action items.

Mr. Moonan supported the idea and recommended including updates on the Pine Street/Coast Guard housing project, work at the intersection of Great Road and Springs Road, and zoning changes expected for fall Special Town Meeting.

Ms. Lloyd asked if the next agenda could include setting meeting dates beyond Annual Town Meeting. Mr. Garber confirmed that there is a fairly high number of permitting requests coming up.

Mr. Cohen said he and Ms. Lloyd met with the ZBA about the Coast Guard housing RFP and discussed what the ZBA might be asked to do from a zoning perspective, depending on various scenarios. If a zoning bylaw amendment does not take place, they could be approached by a developer, seeking a comprehensive permit under Chapter 40B.Mr. Cohen and Ms. Lloyd told the ZBA what the Planning Board's sentiments were on the potential re-development of the property, including a consensus that fewer than 35 units are preferred. Mr. Garber asked if the Coast Guard had submitted its appraisal yet and if it was known when the RFP would be issued. Ms. Mustapich believed the appraisals had not yet come in because Municipal Trust meetings kept being cancelled due to lack of new information.

Ms. Mustapich moved that the meeting be adjourned. Mr. Cohen seconded. The motion carried unanimously, 5-0-0.

Meeting adjourned at 9:10.

Respectfully submitted, Kim Siebert, Acting Recording Secretary Approved as amended, February 17, 2015